

DEPARTMENT OF ENVIRONMENTAL QUALITY

Water Quality Standards Triennial Revision

LAC 33:IX.1101, 1105, 1107, 1109,
1113, 1115, 1119, 1121 and 1123

Log Number: WQ097

The public hearing in the above titled matter was taken at the Department of Environmental Quality, 602 North Fifth Street, Baton Rouge, Louisiana, beginning at 1:33 p.m. on January 28, 2020.

Before Mark LaCour, Certified Stenomask Reporter, in and for the State of Louisiana.

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(225) 216-2036

H E A R I N G

MS. ALMOND:

Good afternoon! My name is Laura Almond, and I'm employed by the Louisiana Department of Environmental Quality. I'll be serving as the hearing officer this afternoon to receive comments regarding proposed amendments to the air and water quality regulations.

The comment period for these amendments began on December 20, 2019, when the notice of intent was published in the *Louisiana Register*. The comment period will close at 4:30 p.m., today, January 28th 2020. It would be helpful to us if all oral comments received today were followed up in writing.

This public hearing provides a forum for all interested parties to present comments on the proposed changes. This hearing is not being conducted in a question and answer format. Please remember that the purpose of this public hearing is to

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1 allow you, the public, an opportunity to
2 express your thoughts concerning today's
3 proposed amendments.

4 I'll ask that each person
5 commenting come up and sit at the front
6 table and begin by stating his or her
7 name and affiliation for the record.

8 The next amendment is designated
9 by the Log Number WQ097.

10 This proposed Rule corrects
11 typographical errors, incorrect spelling
12 and incorrect references throughout
13 Chapter 11 in the water quality
14 regulations. Where needed for
15 clarification, language in this chapter
16 has been revised. There have been
17 additions and deletions made to the
18 definitions in Section 1105. In
19 Sections 1109, language has been revised
20 to be in agreement with the federal
21 Water Quality Standards Regulatory
22 Revisions final rule. In Section 1113,
23 the ambient water quality criteria toxic
24 substances for the protection of human
25 health in Table 1 has been updated based

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1 primarily on EPA's final updated
2 recommendations. An ammonia criterion
3 for freshwater has been added in Section
4 1113. Language revisions have been made
5 in Sections 1115, 1119, and 1121. In
6 Section 1123, Table 3, subsegment
7 descriptions and boundaries have been
8 revised using up-to-date technology.

9 The first person commenting will
10 be Ms. Jordan.

11 **MS. JORDAN:**

12 Thank you. My name is Lisa
13 Jordan. I am the Director of the Tulane
14 Environmental Law Clinic and I'm here on
15 behalf of the Louisiana Environmental
16 Action Network and the Louisiana Audubon
17 Council. On February 25th 2019 Judge
18 Mary Ann Lemon, a Federal District judge
19 in the United States District Court for
20 the Eastern District of Louisiana issued
21 a final order vacating the revised
22 dissolved oxygen standards issued by
23 LDEQ as WQ091 in 2016 and approved by
24 EPA that same year. I'm entering into
25 the record as Exhibit A, a copy of the

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1 Court's order vacating that standard.

2 These vacated standards are the
3 dissolved oxygen standards for 31 water
4 body subsegments more than west of Lakes
5 Pontchartrain and Maurepas. And I'm
6 including as Exhibit B a list from EPA's
7 approval document that lists all 31
8 water body subsegments. I know that
9 LDEQ is obligated to respond to all
10 reasonable public comments as part of
11 its rule-making, and so I have a
12 question that I'd like responded to by
13 LDEQ when it issues its response to
14 comments. And the question is regarding
15 the existing listed dissolved oxygen
16 standard for these 31 subsegments. DEQ
17 has the applicable dissolved oxygen
18 standard for these 31 water bodies
19 listed as 2.3 milligrams per liter from
20 March to November. And 5.43 from
21 February -- I'm sorry, December through
22 February. That is the standard that was
23 vacated by the federal court back on
24 February 23rd 2019. And so my question
25 is how can LDEQ represent that the

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1 existing dissolved oxygen standard for
2 these three, for each 31 water bodies is
3 2.3 when the federal court vacated those
4 standards, and how can LDEQ justify
5 ignoring that federal court order and
6 pretending that the standard is 2.3 when
7 it is not. The standards for those 31
8 water bodies should have been -- well,
9 was vacated and should be currently
10 listed in the regulations as 5.0
11 milligrams per liter. Because that's
12 the applicable standard right now for
13 those water bodies which are estuarine.
14 Of those 31 water bodies, just for
15 clarity sake, five of them appear --
16 five of them appear as changes in the
17 current WQ097. Those are 040305, 04041,
18 04056, 040604, and 040605. And those
19 are listed because apparently the
20 delineation of the subsegment is
21 changing. But these five are captured
22 within the 31 that should be listed as
23 the current standard in 5.0 or 4.0, not
24 2.3. And so I'd like a response to how
25 the DEQ and why the DEQ is ignoring the

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1 federal court order and listing the
2 standard as something that's been
3 vacated.

4 Finally, I just want to recognize
5 that even though these, the rest of
6 these 31 standards are not listed as
7 something that's changing it's
8 appropriate to comment on why they
9 haven't been listed as changed. Because
10 if the DEQ is still proposing to go
11 forward with 2.3 then it should be
12 reflected in WQ097 as a change. It
13 should be listed as 5.0 now and a
14 proposed change to 2.3 if DEQ attempts
15 to continue to try to go forward with
16 that 2.3 standard. But the matter was
17 vacated by the federal judge and sent,
18 remanded to EPA, and so far no further
19 action has been taken. So the standard
20 is, the standards are still vacated.
21 Thank you.

22 **MS. ALMOND:**

23 Thank you. Does anyone else care
24 to comment on Log Number WQ097? If not,
25 the hearing on Amendment WQ097 is

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closed.

THE HEARING ENDED AT 1:40 P.M.

* * * * *

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R E P O R T E R ' S P A G E

I, Mark LaCour, Certified Court Reporter, in and for the State of Louisiana, the officer, as defined in Rule 28 of the Federal Rules of Civil Procedure and/or Article 1434(b) of the Louisiana Code of Civil Procedure, before whom this hearing testimony was taken, do hereby state on the record:

That due to the interaction in the spontaneous discourse of this proceeding, dashes (--) have been used to indicate pauses, changes in thought, and/or talk overs; that same is the proper method for a Court Reporter's transcription of proceeding, and that the dashes (--) do not indicate that words or phrases have been left out of this transcript.

Also, any words and/or names which could not be verified through reference material have been denoted with the phrase "(inaudible)."



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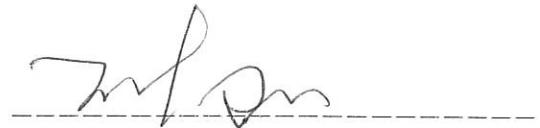
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C E R T I F I C A T I O N

I, the undersigned reporter, do hereby
certify that the above and foregoing is a true
and correct transcription of the stenomask
tape of the proceedings had herein, taken down
by me and transcribed under my supervision, to
the best of my ability and understanding, at
the time and place hereinbefore noted, in the
above-entitled cause.

I further certify that the witness was
duly sworn by me in my capacity as a Certified
Court Reporter pursuant to the provisions of
R.S. 37:2551 et seq. in and for the state of
Louisiana; that I am not of counsel nor
related to any of the counsel of any of the
parties, nor in the employ of any of parties,
and that I have no interest in the outcome of
this action.

I further certify that my license is in
good standing as a court reporter in and for
the state of Louisiana.



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In The Matter Of:
DEPARTMENT OF ENVIRONMENTAL QUALITY
Log Number: WQ097

PUBLIC HEARING
January 28, 2020

Associated Reporters, Inc.
2431 South Acadian Thruway
Suite 550
Baton Rouge, La. 70808

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